

New York High Court Finds Expert Failed to Satisfy Causation Requirement



Article By

[Daniel M. Krainin](#)

[Mackenzie S. Schoonmaker](#)

[Beveridge & Diamond PC](#)

[Environmental Law Portal](#)

- [Construction Law](#)
- [Real Estate](#)
- [Insurance Reinsurance & Surety](#)
- [Environmental, Energy & Resources](#)
- [Litigation / Trial Practice](#)

- [New York](#)

Saturday, August 2, 2014

In a decision that reaffirms the **importance of expert testimony**, New York's highest court ruled that a plaintiff's expert had failed to establish either general or specific causation such that the plaintiff could withstand summary judgment. See ***Cornell v. 360 W. 51st Street Realty, LLC***, 2014 NY Slip Op 02096 (N.Y. March 27, 2014). The case arose out of a woman's claim that **exposure to dampness and mold** in her apartment caused her to suffer a variety of physical symptoms, which eventually forced her out of her apartment. She filed suit against her landlord and other related entities, claiming personal injuries, property damage, and constructive eviction, among other causes of action.

Defendants moved for summary judgment to dismiss all of Plaintiff's claims, arguing that she was **unable to prove** that mold is capable of causing her kind of injuries (general causation) or caused her injuries (specific causation). The trial court agreed with Defendants but the intermediate appellate court reversed. The Court of Appeals applied the test established in *Parker v. Mobil Oil Corp., et al.*, 7 N.Y.3d 434 (2006), which required an expert's causation opinion to establish both general

causation and specific causation in complex product liability and toxic tort matters.

First, the court held that Plaintiff did not establish that the **scientific community generally accepted** that mold could cause the kinds of adverse health effects that she suffered. The court further found that Plaintiff's expert only showed an association, which does not necessarily mean a cause-and-effect relationship. Second, the court held that Plaintiff did not establish specific causation because Plaintiff's expert had failed to make any effort to quantify Plaintiff's exposure to mold, or to refute the opinion of Defendants' expert that the mold was present at concentrations and distribution to be expected in a typical home.

The author gratefully acknowledges the assistance of Monisola O. Salaam in the preparation of this article.

© 2019 Beveridge & Diamond PC

Source URL: <https://www.natlawreview.com/article/new-york-high-court-finds-expert-failed-to-satisfy-causation-requirement>